

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA, Plaintiff, v. JIMMY NACE, Defendant.	Case No. CR-21-198-RAW
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ORDER

The Defendant, a non-Indian, is charged in this case with the murder of Bobby Joe Dalpoas, an Indian, in Indian Country. Now before the court are the Defendant's motion to suppress his statements made to law enforcement [Docket No. 97], his amended motion to suppress his statements made to law enforcement [Docket No. 123], the Report and Recommendation ("R&R") issued by the United States Magistrate Judge [Docket No. 150], and the Defendant's Objection to the R&R [Docket No. 182].

The Defendant moves for the suppression of all statements he made to law enforcement during the two interviews conducted on July 5, 2019, the interview conducted on July 10, 2019, and the custodial interrogation on August 6, 2019. The Magistrate Judge found that, under the totality of the circumstances, the first three interviews were voluntary, and further as to the fourth interview, the Defendant was informed of and knowingly, voluntarily, and intelligently waived his *Miranda* rights.

The Defendant objects to the R&R, citing the August 6, 2019 interrogation at the 16:48 and the 19:27 marks. He argues that the Magistrate Judge failed to recognize these specific

exchanges and requests that the court overrule the R&R and suppress his August 6, 2019 statements. In fact, the Magistrate Judge did recognize these specific exchanges and discussed them in the R&R. Docket No. 150, at 8-9. The court agrees with the Magistrate Judge that all the statements the Defendant made in response to questioning both prior to and following his arrest and waiver of his *Miranda* rights should not be suppressed.

The Defendant's motion to suppress his statements made to law enforcement [Docket No. 97] [Docket No. 97] is MOOT, the Defendant's amended motion to suppress his statements made to law enforcement [Docket No. 123] is DENIED, the Magistrate Judge's Report and Recommendation [Docket No. 150] is hereby AFFIRMED and ADOPTED as this court's Order, and Defendant's objection to the R&R [Docket No. 182] is overruled.

IT IS SO ORDERED this 9th day of March, 2022.



THE HONORABLE RONALD A. WHITE
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF OKLAHOMA